

VIRGINIA: IN THE CIRCUIT COURT FOR CITY OF ROANOKE

LORETTA W. FRANKLIN,

Plaintiff,

v.

Case No.: CL16-621

WELLS FARGO BANK, N.A., *et al.*,

Defendants.

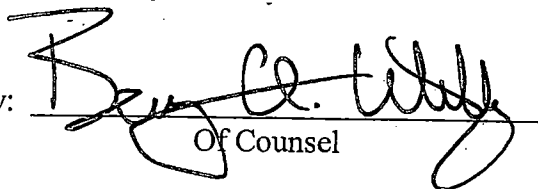
NOTICE OF FILING NOTICE OF REMOVAL

PLEASE TAKE NOTICE that Defendant, Wells Fargo Bank, N.A. ("Wells Fargo"), by counsel, and without waiving any available defenses or rights, sent its Notice of Removal of this action to the United States District Court for the Western District of Virginia, Roanoke Division, on April 6, 2016. A copy of the Notice of Removal is attached hereto as **Exhibit A**.

PLEASE TAKE NOTICE that pursuant to 28 U.S.C. § 1446, this Notice is provided to the Circuit Court of the City of Roanoke, Virginia, to effect removal, and the Circuit Court shall proceed no further unless and until this case is remanded.

WELLS FARGO BANK, N.A.

By:


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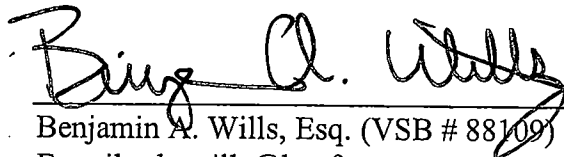
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CERTIFICATE OF SERVICE

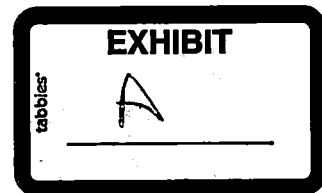
I hereby certify that on this 6th day of April, 2016, a true copy of the foregoing pleading has been sent via U.S. Mail to:

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**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
Roanoke Division**

LORETTA W. FRANKLIN,)	
)	
Plaintiff,)	Case Removed from Roanoke City
)	Circuit Court Case No. CL16-621
)	
v.)	Civil Action No. _____
)	
WELLS FARGO BANK, N.A. <i>et al.</i>,)	
)	
Defendants.)	

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, Defendant, Wells Fargo Bank, N.A. (“Wells Fargo”), by counsel, without waiving any available defenses or rights, hereby removes the case styled: Loretta W. Franklin v. Wells Fargo Bank, N.A., et al., Case No. CL16-621 (“State Court Action”), from the Circuit Court of the City of Roanoke, Virginia to the United States District Court for the Western District of Virginia, Roanoke Division (“District Court”). Removal is based on the fact that the parties are diverse and the amount in controversy exceeds \$75,000.00. Wells Fargo further states as follows:

Background

1. The Plaintiff, Loretta W. Franklin (the “Plaintiff”), commenced this action against Wells Fargo by filing a Complaint in the City of Roanoke Circuit Court on March 15, 2016. The Defendants are Wells Fargo Bank, N.A. and Union Security Life Insurance Company (“Union Security”).

2. Wells Fargo was served on March 18, 2016. Defendant Union Security¹ has also been served, and consents to the removal of this action to the District Court.

¹ See ¶ 10.

3. In her Complaint, the Plaintiff seeks damages related to the foreclosure of certain real property located at 1317 Chapman Avenue, S.W., Roanoke, Virginia 24016 (“Property”), evidenced by a promissory note (the “Note”) and deed of trust (the “Deed of Trust”) in the principal amount of \$54,146.03, as well as damages in the amount of \$1,150,000.00. (Compl. 11-12.) As the parties are completely diverse, removal is appropriate through this Court’s diversity jurisdiction.

Statement of the Grounds for Removal

4. 28 U.S.C. § 1441(a) provides that any “civil action brought in a State court of which the district courts of the United States have original jurisdiction may be removed by the defendant or the defendants, to the district court of the United States for the district and division embracing the place where such action is pending.”

5. In turn, 28 U.S.C. § 1332(a)(1) provides that “[t]he district courts shall have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs, and is between citizens of different States.”

6. In the present action, both (A) complete diversity of parties is satisfied, and (B) the minimum amount in controversy is greater than \$75,000; therefore, removal is appropriate based on diversity jurisdiction.

A. Diversity of Citizenship.

7. The citizenship status of the real parties in interest is completely diverse.

8. The Plaintiff is a citizen of the Commonwealth of Virginia at the time the Complaint was filed, and upon information and belief is currently a citizen of the Commonwealth. (Compl. ¶ 1.)

9. Defendant Wells Fargo was a citizen of South Dakota at the time the Complaint was filed, and is currently a South Dakota citizen because its articles of association establish that location as its main office. See 28 U.S.C. § 1348; Wachovia Bank v. Schmidt, 546 U.S. 303, 307 (2006) (“[A] national bank, for § 1348 purposes, is a citizen of the State in which its main office, as set forth in its articles of association, is located.”); see also Monton v. America's Servicing Co., No. 2:11cv678, 2012 U.S. Dist. LEXIS 117259, 13-14 (E.D. Va. Aug. 20, 2012) (noting that Wells Fargo is citizen of South Dakota). Its principal place of business was South Dakota both at the time the Complaint was filed and at removal. Accordingly, Wells Fargo does not have citizenship in Virginia for purposes of determining diversity jurisdiction.

10. Defendant Union Security is no longer an active entity. As noted in Exhibit B to the Complaint, Union Security merged with American Bankers Life Assurance Company of Florida (“ABLAC”) on December 1, 2006. ABLAC is a foreign corporation formed in Florida, with its principal office in Miami, Florida, both at the time the Complaint was filed and currently.

11. Accordingly, as Plaintiff's citizenship is completely diverse from both Defendants, complete diversity of citizenship exists.

B. Amount in Controversy Requirement.

12. 28 U.S.C. § 1332(a)(1) provides that “[t]he district courts shall have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs, and is between citizens of different States.”

13. The amount in controversy here exceeds \$75,000.00 because Plaintiff seeks damages in the amount of \$1,150,000.00. (Compl. 11-12.)

14. Accordingly, as both diversity of citizenship and amount in controversy are satisfied, this matter is removable to this Court through diversity jurisdiction.

Venue

15. The City of Roanoke Circuit Court, Virginia, is located within the Western District of Virginia, Roanoke Division. Thus, venue is proper pursuant to 28 U.S.C. § 127(a) and 28 U.S.C. § 1441(a).

Notice

16. This Notice of Removal is timely pursuant to 28 U.S.C. § 1446(b) because Wells Fargo was served on March 18, 2016.

17. Pursuant to 28 U.S.C. § 1446(d), Wells Fargo has previously filed a written notice of this removal, attached hereto as **Exhibit A**, with the Clerk of the Circuit Court for the City of Roanoke, Virginia.

18. Wells Fargo has also mailed a copy of this Notice of Removal to Plaintiff in accordance with 28 U.S.C. § 1446(d).

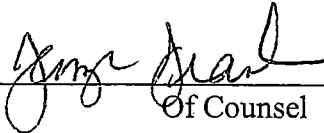
19. As required by 28 U.S.C. § 1446(a), all pleadings from the Circuit Court are attached hereto as **Exhibit B**.

20. By filing this Notice of Removal, Wells Fargo does not waive any of its denials, objections or affirmative defenses.

21. If any questions arise as to the propriety of the removal of this action, Wells Fargo requests the opportunity to present a brief and argument in support of their position that this case is removable.

WHEREFORE, the Defendant, Wells Fargo Bank, N.A., respectfully removes this action, Case Number CL16-621, from the Circuit Court for the City of Roanoke, Virginia to the United States District Court for the Western District of Virginia, Roanoke Division.

WELLS FARGO BANK, N.A.

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CERTIFICATE OF SERVICE

I hereby certify that on this 6th day of April, 2016, a true copy of the foregoing pleading has been sent via U.S. Mail to:

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